

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraphs have been amended on pages 26 and 27. In addition, a paragraph claiming foreign priority has been added on the first page of specification. All the amendments in the specification were requested by the Examiner in the Office Action dated August 26, 2004. No new matter is introduced.

The sequence listing has been amended. A sequence No. 28 has been added to the sequence listing. The added sequence is the wild type sequence of mature bilin binding protein of *Pieris brassicae*. The added sequence is fully supported by the application as filed. Specifically, page 8 (lines 10-13) of the application discloses “the natural bilin-binding protein (SWISS-PROT database, accession code P09464)”. Therefore, no new matter is introduced in the amended sequence listing.

Claims 1-7 and 15 are currently being amended. The claims are amended to address the Examiner’s rejections/objections and/or to present the invention more clearly. All the amendments are fully supported by the application as filed, particularly by pages 8-10. No new matter is introduced.

Claims 18-21 are being added. The new claims provide additional limitations to the earlier presented claims and are supported by the application as filed. No new matter is introduced.

I. REJECTIONS UNDER 35 U.S.C. § 101.

Claims 1-5 are rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Applicant followed the Examiner’s suggestion in amending claims. Accordingly, the amended claim 1 is directed now to “an isolated mutein ...”. Thus, applicant believes that the present amendment obviates the rejection, and, therefore, requests withdrawal of the rejection.

II. REJECTIONS UNDER 35 U.S.C. § 112.

Claims 1-7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant disagrees with the statement on page 5 of the Office action that the limitation “100 nM or less” of claim 2 makes this claim indefinite. Applicant points out that it is well known to one skilled in the art that the complex formation is an equilibrium reaction and, therefore, the dissociation constant is positive and can not have a value of zero. Applicant believes that the present amendment addresses all other points of the rejection. Accordingly, applicant requests withdrawal of the rejection.

III. CLARIFICATION REGARDING CLAIM 15.

Due to a typo, the application was filed with two claims 15: the first directed to “a method for preparing ...”, the second directed to “the use of ...”. The amendment filed December 7, 2001, and the present amendment are both directed to claim 15 reciting “a method for preparing ...”. Since no claim 16 was filed in the application, applicant renumbers the second claim 15 directed to “the use of ...” as claim 16 in the present amendment. If the Examiner objects this renumbering, applicant requests cancellation of claim 15 directed to “the use of ...”.

IV. FOREIGN PRIORITY.

Applicant amends the specification to claim priority to German patent application no. 19926068. In addition, applicant provides the Examiner with an English language translation of German patent application no. 19926068. The accuracy of the English language translation is supported by the enclosed declaration of Charles Edward Sitch of RWS Group Ltd UK.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-21 are now pending in this application.

Applicant believes that the present application is now in condition for allowance.
Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date February 25, 2005

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5569
Facsimile: (202) 672-5399

By Alexey Sapozhnikov
Alexey Sapozhnikov (reg. number 56,439)
FOR Stephen B. Maebius
Attorney for Applicant
Registration No. 35,264